

Application for Search and Seizure Warrant

**UNITED STATES DISTRICT COURT**  
for the  
Western District of Washington

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| Apr 15, 2020  |        |
| CLERK U.S. DISTRICT COURT<br>WESTERN DISTRICT OF WASHINGTON AT TACOMA |        |
| BY  | DEPUTY |

**In the Matter of the Search of:**  
Isabela Contreras

**Case No. MJ20-5063**

**APPLICATION FOR A SEARCH WARRANT FOR BLOOD SAMPLE**

I, Justin Myers, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that a sample of blood consisting of one of more tubes or vials should be taken from the following person:

Isabela Contreras

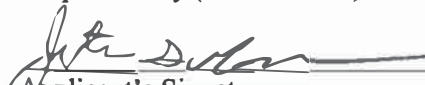
Located in the Western District of Washington and that this blood sample is evidence of the following crime or crimes.

- ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- ☐ Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13
- ☐ \_\_\_\_\_

This application is based on the facts set forth in the attached affidavit which is incorporated herein as if fully set forth.

Pursuant to Fed. R. Crim. P. 4.1 & 41(d)(3), this warrant is presented:

- ☒ By reliable electronic means.      ☐ Telephonically (and recorded).

  
\_\_\_\_\_  
Applicant's Signature  
Justin Myers, Military Police Officer  
Joint Base Lewis-McChord Police Department

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on this 15 day of April, 2020.

  
\_\_\_\_\_  
THE HON. RICHARD J. CREATURA  
UNITED STATES MAGISTRATE JUDGE

1  
2 STATE OF WASHINGTON )  
3 ) ss  
4 COUNTY OF PIERCE )

5  
6 AFFIDAVIT OF OFFICER JUSTIN MYERS

7 I, Officer Justin Myers, a Military Police Officer with Joint Base Lewis-  
8 McChord Police, Pierce County, Washington, having been duly sworn, state as follows:

9 AFFIANT BACKGROUND

10 1. I have served as a law enforcement officer for the past 2 1/2 years. My  
11 training and experience relevant to the investigation discussed below includes the  
12 following:

- 13 ☒ Basic Law Enforcement Training at the U.S. Army Military  
14 Police Academy  
15 ☐ Basic Law Enforcement Academy at the Washington Criminal  
16 Justice Training Commission  
17 ☒ Standardized Field Sobriety Testing  
18 ☐ Advised Roadside Impaired Driving Enforcement Training

19 I am Justin G. Myers, currently assigned to the JBLM Target Enforcement Patrol. I  
20 attended Military Police Training at Fort Leonard Wood, MO from June 2017 to  
21 November 2017, which included training to evaluate and determine if a driver is  
22 impaired. Upon arrival to my first duty station I attended the Joint Base Lewis-McChord  
23 Professional Protector Police Academy which is a 180 hour course to certify soldiers to  
24 conduct Military Police operations specific to Joint Base Lewis-McChord. I completed  
25 Standardized Field Sobriety Test training in accordance with National Highway and  
26 Transportation Safety Administration (NHTSA) standards in 2019. I completed training  
27 and certification to operate the Draeger Alcotest 9510 in February 2019. The training  
28 consisted of how alcohol affects the human body and its many systems, how to detect an  
impaired driver and how to correctly operate the Draeger. Through my training and

AFFIDAVIT OF JUSTIN MYERS

BLOOD WARRANT FOR ISABELA CONTRERAS - 1

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1 experience, I have learned to recognize the signs of alcohol and/or drug impairment in  
 2 people and to determine whether or not a person's ability to safely drive a motor vehicle  
 3 is impaired. I have conducted 3 DUI arrests throughout my career in law enforcement.

4 2. The information presented in this affidavit is:

- 5 ☒ Based on my personal observations and interviews that I have  
 6 conducted.

7 INTRODUCTION AND PURPOSE OF THE AFFIDAVIT

8 3. The purpose of this affidavit is to seek a search warrant to authorize me or  
 9 other law enforcement officers to direct a physician, a registered nurse, a licensed practical  
 10 nurse, a nursing assistant as defined in Chapter 18.88A of the Revised Code of  
 11 Washington (RCW), a physician assistant as defined in chapter 18.71A of the RCW, a  
 12 first responder as defined in chapter 18.73 of the RCW, an emergency medical technician  
 13 as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter  
 14 18.135 of the RCW, or any technician trained in withdrawing blood to extract a blood  
 15 sample consisting of one or more tubes or vials from Isabela Contreras (hereafter "the  
 16 Subject"). This warrant is requested for the purpose of gathering evidence of the following  
 17 crime(s):

- 18 ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18  
 19 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218  
 20 ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or  
 21 Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R. §  
 22 4.23 or 38 C.F.R. § 1.218  
 23 ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation  
 24 of RCW 46.61.503 and 18 U.S.C. § 13  
 25 ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13  
 26 ☐ Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13  
 27 ☐ \_\_\_\_\_  
 28

4. I am seeking to present this application for a search warrant by electronic  
 means because the natural metabolism of alcohol or drugs in the bloodstream may

1 result in the loss of this evidence in the time it would take to present a search warrant  
2 application in a more traditional fashion.

3 SUMMARY OF PROBABLE CAUSE

4 5. As a result of my duties I am familiar with the jurisdictional boundaries of  
5 Pierce County, Washington. The incident described below occurred within these  
6 jurisdictional boundaries, an area within the special maritime and territorial jurisdiction  
7 of the United States as defined in 18 U.S.C. § 7.

8 6. The initial contact with the Subject occurred on 14 April 2020 at  
9 approximately 8:55 p.m. at the intersection of Pendleton Ave and North Division Street.  
10 At that time a red 2015 GMC Acadia WA license plate #BQN5220, operated by the  
11 Subject, failed to stop at the posted stop sign at the intersection of West Way and  
12 Pendleton Ave. Briefly after passing the stop sign, I observed the vehicle strike the curb  
13 before fully turning right onto Pendleton Ave. I continued to follow the subject vehicle  
14 and observed the vehicle failing to maintain the center position of the lane. Instead, the  
15 vehicle was consistently traveling approximately halfway off the roadway, specifically  
16 meaning half in the travel lane and half to the right of the fog line. While approaching the  
17 intersection of Pendleton Ave and North Division Street, I observed the vehicle proceed  
18 into the left turn lane of the opposite side of the road but quickly jolt back into the proper  
19 lane. I initiated a traffic stop at approx. 8:55 pm, and upon contact with the driver she  
20 provided me with her Alaska Driver's License and a Military ID Card both identifying  
21 her as "Isabela Contreras." During this contact, I observed what appeared to be vomit on  
22 the outside of the vehicle just below the driver's window.

23 7. Based on my training and experience, I believe Isabela Contreras, the  
24 Subject, may be under the influence of intoxicants or drugs for the following reasons:  
25 Upon first contact with the Subject I asked if she had consumed any alcoholic beverages;  
26 she claimed that she had not. I could physically detect possible clues of impairment, such  
27 as bloodshot and watery eyes, delayed reactions and slow slurred speech. I conducted  
28 Standardized Field Sobriety Tests (SFSTs) and I observed obvious signs of impairment.

1 Officer McCranie asked the Subject if she would submit to a voluntary Preliminary  
2 Breath Test (PBT), to which she agreed. During the PBT the Subject repeatedly failed to  
3 provide an adequate breath sample because she covered the PBT tube with her tongue,  
4 while puffing out her cheeks. It appeared to me that she was pretending to blow in the  
5 PBT tube. Officer McCranie placed his hand over the tube air exit hole and could feel no  
6 air flow through the PBT as the Subject was "blowing." During the PBT, I detected a  
7 strong odor of alcoholic beverages emanating from the Subject. After multiple attempts  
8 to coach the Subject through the test, Officer McCranie relayed that she would not  
9 provide an adequate breath sample for the PBT.

10 8. Based on the totality of the circumstances, I concluded that the Subject was  
11 under the influence of intoxicating liquor and/or drugs and unable to operate a motor  
12 vehicle safely. The Subject was advised she was in custody for DUI, taken into custody  
13 without incident. At 9:12 pm the Subject was advised of her legal rights which she stated  
14 she understood. The Subject was transported for further processing. The Subject was  
15 taken to the BAC room where she was advised of her constitutional rights from the  
16 Washington State DUI Arrest Report. The Subject stated she understood her rights but  
17 refused to sign, invoked her rights and requested to speak to an attorney. The Subject was  
18 placed in contact with Federal Public Defender Endo at 9:42 pm. Subject got off the  
19 phone at 10:00 pm. Endo stated that the Subject would not make a statement and invoked  
20 her right to remain silent. The subject was then advised of the Implied Consent Warning  
21 For Breath. The Subject stated she understood and signed. The Subject was asked if she  
22 would submit to a breath sample, which she stated she would. Once the observation  
23 period was completed, the Subject failed repeatedly to provide an adequate breath  
24 sample. Based on my training and experience, it appeared the Subject was placing her  
25 tongue in front of the tube and humming instead of blowing. This belief was reinforced  
26 by the fact that the Dreager indicated there was no airflow through the BAC. Furthermore  
27 the condensation within the mouth piece appeared to of been wiped away by the  
28 Subject's tongue. The Subject was coached multiple times on how to provide a breath

1 sample and continued to stop blowing or block the airflow. Subject was advised that if  
 2 she continued she would be marked as a refusal, to which she said "but I'm not refusing."  
 3 Subject was marked as a refusal at 10:34 pm. An administrative test was conducted on  
 4 the BAC Draeger, which showed it was functioning correctly.

5 9. The Subject:

- 6 ☒ Has refused to take a breath Alcohol test on an instrument approved by  
 7 the State Toxicologist or a federal agency for such breath testing.  
 8 ☐ Is being treated in a hospital, clinic, doctor's office, emergency medical  
 9 vehicle, ambulance, or other similar facility, or is at a location that lacks  
 10 an instrument approved by the State Toxicologist or a federal agency for  
 11 performing such breath testing, and has refused to submit to a blood  
 12 test.  
 13 ☐ Is incapable due to physical injury, physical incapacity, or other  
 14 physical limitation of submitting to a breath alcohol test, and the  
 15 defendant has refused to submit to a blood test.  
 16 ☐ Has refused to submit to a blood test at the request of the undersigned.  
 17 ☐ Was not offered an opportunity to take a breath alcohol test on an  
 18 instrument approved by the State Toxicologist or a federal agency for  
 19 such breath testing because:  
 20 ☐ The available instrument is currently out of order  
 21 ☐ The individual does not speak English and the implied consent  
 22 warnings are not available in a language that the defendant  
 23 understands  
 24 ☐ \_\_\_\_\_  
 25 ☐ Submitted to a breath test on an instrument approved by the State  
 26 Toxicologist or a federal agency for such breath testing but the breath  
 27 alcohol concentration reading of xx **BAC LEVEL** is not consistent with  
 28 the defendant's level of impairment suggesting that the defendant is  
 under the influence of a drug.

10. A sample of blood extracted from the Subject if taken within a reasonable  
 period of time after he/she last operated, or was in physical control of, a motor vehicle,  
 may be tested to determine his/her current blood alcohol level and to detect the presence  
 of any drugs that may have impaired his/her ability to drive. This search warrant is being

AFFIDAVIT OF JUSTIN MYERS

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1 requested within approximately **four to four and 1/2** hours after the Subject ceased  
 2 driving or was found in in physical control of a motor vehicle.


3 CONCLUSION

4 11. For the reasons stated above, I request authority to direct a physician, a  
 5 registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter  
 6 18.88A of the RCW, a physician assistant as defined in chapter 18.71A of the RCW,  
 7 a first responder as defined in chapter 18.73 of the RCW, an emergency medical  
 8 technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in  
 9 chapter 18.135 of the RCW, or a technician trained in withdrawing blood to extract a  
 10 blood sample consisting of one or more tubes or vials from Isabela Contreras.

11 12. This application for a warrant is being presented electronically pursuant to  
 12 Fed. R. Crim P. 4.1 & 41(d)(3).

13  
 14 I certify (or declare) under penalty of perjury under the laws of the United States  
 15 that the foregoing is true and correct to the best of my knowledge, information and belief.

16 Dated this 15 day of April, 2020.

17  
 18   
 19 Justin Myers, Military Police  
 20 Joint Base Lewis-McChord

21 The above-named agent provided a sworn statement attesting to the truth of the  
 22 foregoing affidavit on 15 day of April, 2020.

23  
 24   
 25 THE HON. RICHARD J. CREATURA  
 26 UNITED STATES MAGISTRATE JUDGE  
 27  
 28